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The Commonwealth of Massachusetts

State Ethics Commission



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COMMISSION FACT SHEET

University of Massachusetts "SPECIAL" MUNICIPAL EMPLOYEES
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The conflict of interest law covers all municipal employees, whether elected or appointed, paid or unpaid, full-time or part-time. However, two sections of the conflict law apply less restrictively to those part-time or unpaid municipal officials who have been designated as "special municipal employees."

Special municipal employee status can be assigned to certain municipal positions by a vote of the board of selectmen, board of aldermen, city council or town council. You are eligible to be designated as a special municipal employee provided that:

- 1) you are not paid; or
- 2) you hold a part-time position which allows you to work at another job during normal working hours; or
- 3) you were not paid by the city or town for more than 800 working hours (approximately 20 weeks full-time) during the preceding 365 days.

It is the municipal position which is designated as having special status, not the individual. Therefore, all employees holding the same office or position must have the same classification as special. For instance, one member of a school committee cannot be classified as a special unless all members are similarly classified.

The designation may be made by a formal vote of the board of selectmen or city council at any time. Votes should be taken individually for each board or position being designated -- expressly naming the positions being designated. Once a position is designated as having special status, it remains a special municipal employee position until and unless the classification is rescinded. A list of all the special municipal employee positions should be on file at the town or city clerk's office.

Under no condition may a mayor, alderman, city councillor, town councillor or selectman in a town with a population of more than 5,000 be designated as a special. However, in towns of 5,000 or less, selectmen may designate themselves as special employees.

The Legislature may designate certain employees to be special municipal employees. For example, members of local housing and redevelopment authorities are defined by law as special municipal employees and do not need to have local authorities approve their designation as specials. (See G.L. c. 121B, §7.)

THE CONFLICT LAW IS LESS RESTRICTIVE FOR "SPECIALS"

Only two sections of the conflict of interest law apply less restrictively to specials -- Sections 17 and 20. All other sections of the conflict law which affect municipal employees apply to special municipal employees in the same way. See a Summary of the Conflict Law for Municipal Officials or the Practical Guide to the Conflict Law for Municipal Employees for information on your responsibilities under the law. (These publications are available from the Commission's office.) Remember that even if you serve on an unpaid part-time board or commission, you are still considered a municipal employee, unless you have been expressly designated as a special municipal employee.

Section 17 -- What you can do in your private employment

In general, Section 17 prohibits municipal employees from acting as the agent or attorney for a private party before town boards.

If you are a special, however, you may represent private parties before other town boards (but not your own) provided that you have not officially participated in the matter and the matter is not now (or was not within the past year) within your official responsibility.

Example: You are a Conservation Commissioner. The Commission has been given special status. You are an engineer in private practice in town. You may be hired as site engineer and represent a private development company in a controversy regarding a subdivision plan before the Planning Board. But if the matter before the Planning Board was centered on a wetland dispute which the Conservation Commission was involved with, you may not represent the developer before the Planning Board because the matter is under your official responsibility as Conservation Commissioner.

Section 20 -- Restrictions on having contracts with the town and holding multiple positions

Municipal employees generally may not have contracts with their own town or hold multiple paid town positions.

However, if you are a municipal employee -- regular or special --you may:

1. hold any number of appointed unpaid positions.
2. hold any number of elected unpaid positions.
3. hold any number of elected paid positions. Yes, you can receive pay for all of them.
4. hold more than one paid position provided that the jobs are in separate agencies (which do not have overlapping responsibilities) and all paid jobs have been publicly advertised. (There are additional technical requirements you must meet including the requirement that the board of selectmen must approve of your holding more than one paying position -- contact your city or town counsel or the Ethics Commission for advice before taking a second paid job.)
5. have a contract with the town provided that the contract is with an agency totally independent of where you work, there is no overlap between the agencies, and the contract has been publicly advertised or competitively bid. (Again, you must meet further technical requirements -- get advice on this.)

Selectmen, town clerks and executive secretaries have special rules which apply to them.

Additional Section 20 exemptions for "specials."

If you hold an unpaid special position, you may also:

1. hold a second paid position or have a town contract if the agencies are separate and their responsibilities do not overlap. There is no requirement that the jobs be publicly advertised. Before taking the second job or accepting the contract you must file a disclosure listing the two jobs or the contracts with the clerk. To receive this exemption, you do not need the approval of the board of selectmen.
2. be hired or contract with your own department or a department under your supervision if you receive formal approval from the city council, board of selectmen or board of aldermen. Again, you must file the disclosure with the city or town clerk.

Example: You are on the unpaid board of health. You are a special. You may have a paid consulting contract with the highway department regarding road construction or you could be hired as the paid full-time dog officer because you do not, as a board of health member, have any responsibility for these agencies. You must file a disclosure with the town clerk listing your two jobs and what you are paid.

Example: You are on the unpaid school committee. You own a hardware store in town. You may not sell light bulbs to the school department because the school department is under your official responsibility. However, if the board of selectmen formally approve the arrangement, you may contract with the school department. You must file a disclosure statement with the town clerk.

If you hold a paid "special" position:

1. you may hold a second paid position but the second position must be designated as a special municipal position as well. The jobs must be in separate agencies which do not overlap and you must file a disclosure statement with the town or city clerk.
2. If the second paid position is not designated as a special position, then the job must be publicly advertised. As above, the jobs must be in separate agencies which do not overlap and you must meet further technical requirements. (Get advice on further requirements.)
3. you may have a contract with a town agency as long as the contract is with a separate agency which does not overlap with yours and the contract has been publicly advertised or competitively bid. (Get advice.)

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The definition of special municipal employee can be found in Section 1(n) the conflict of interest law (G.L. c. 268A).

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Commission Fact Sheets are prepared and issued by the Public Education Division of the State Ethics Commission. They are intended to provide guidance to public officials and employees concerning practical applications of the conflict law.

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